



PATENT  
Customer Number 22,852  
Attorney Docket No. 08702.0039-02000

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

WANG *et al.*

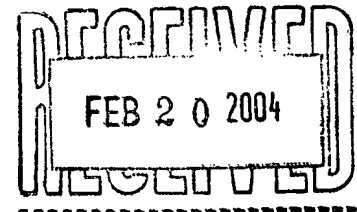
Application No.: 09/804,625

Filed: March 9, 2001

For: BMP PRODUCTS

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)  
) Group Art Unit: 1647  
)  
) Examiner: Davis S. Romeo  
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)  
)  
)

Commissioner for Patents  
P.O. Box 1450  
Arlington, VA 22313-1450



Sir:

**DECLARATION UNDER 37 C.F.R. § 1.801-1.809**  
**REGARDING DEPOSIT OF BIOLOGICAL MATERIALS**

I do hereby declare and state that:

1. On information and belief, the Applicants have, under the provisions of the Budapest Treaty, deposited viable cultures of Bacteriophage lambda containing human DNA sequences for a bone growth factor, U2OS-39 and U2OS-3, on June 16, 1987, in the American Type Culture Collection, 10801 University Boulevard, Manassas, VA 20110. The accession numbers for these deposits are ATCC 40345 and 40342, respectively. Copies of the International Form, Receipt of Original Deposit, and Viability Statement are attached to this Declaration.

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

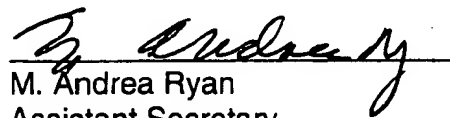
1300 I Street, NW  
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2. On information and belief, the cultures were deposited under conditions which insure that access to the cultures will be available to persons determined by the Commissioner to be entitled thereto under 37 C.F.R. § 1.14 and 35 U.S.C. § 122.

3. Upon issuance of a patent on the above-identified patent application, or continuation applications thereof, any restriction as to the public availability of the deposits will be irrevocably removed, and the deposits will be replaced should the depository be unable to distribute a sample upon a proper request, during the enforceable life of the patent, or the period of five years after the last public request for the deposits, whichever period is longer.

4. The undersigned further declares that all statements made herein on his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this document or any patent issuing thereon.

DATE: 2/2/04

  
M. Andrea Ryan  
Assistant Secretary  
Genetics Institute, LLC

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